

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. P-750
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**ORDER DENYING REQUEST FOR SUBPOENA AND TREATING REQUEST AS
PREFILED TESTIMONY AND EXHIBITS**

(Issued April 8, 2004)

On September 11, 2003, MidAmerican Energy Company (MidAmerican) filed a petition and exhibits for renewal of natural gas pipeline permit number P-887, issued to Iowa-Illinois Gas and Electric Company, predecessor to MidAmerican, on October 17, 1978, for the Blue Grass Lateral #2. The original permit was for a line approximately 2.08 miles long. On March 11, 1981, the Iowa State Commerce Commission, predecessor agency to the Utilities Board (Board), issued an amendment to the permit to add approximately 1.68 miles to the line. The renewal petition is for approximately 3.83 miles of existing 4-inch diameter steel pipeline for the transportation of natural gas in Scott County, Iowa.

The issue in this case is whether MidAmerican's pipeline permit for an existing pipeline should be renewed. MidAmerican is not seeking to construct a pipeline or change the existing pipeline in any way. Pursuant to Iowa Code Chapter 479 and the implementing rules in 199 IAC Chapter 10, the specific issues that relate to this general issue include the following. Whether renewal of the permit will promote the

public convenience and necessity. Iowa Code §§ 479.12 and 479.23. Whether there is any safety issue with respect to the pipeline, whether the pipeline meets all applicable pipeline safety standards, and whether any terms, conditions, or restrictions as to safety are just and proper. Iowa Code §§ 479.12 and 479.23; 199 IAC 10.2 and 10.12. Whether terms, conditions, and restrictions as to the location and route would be just and proper. Iowa Code §§ 479.12 and 479.23; 199 IAC 10.2. Whether MidAmerican has shown it has property within this state, other than pipelines, subject to execution of a value in excess of \$250,000, or otherwise meets the financial qualification requirement in Iowa Code § 479.26 and 199 IAC 10.2. If an objector raises another specific issue, it must be relevant to the general issue of whether MidAmerican's pipeline permit for the Blue Grass Lateral # 2 should be renewed and the specific issues listed above.

On February 26, 2004, the undersigned administrative law judge issued a procedural order and notice of hearing. The hearing is set for Tuesday, April 13, 2004, by telephone conference call.

On March 31, 2004, Mr. Keith Meyer filed a request to intervene in the case. In the request, Mr. Meyer stated he is a customer of MidAmerican with a long and recorded interest in MidAmerican, a resident of Davenport, the operator of a native Iowa winery, an alderman in the city of Davenport, and hearing impaired. He requested that he be allowed to intervene and that Mr. Warren Buffett appear at the hearing on behalf of MidAmerican to answer questions.

On April 1, 2004, the undersigned issued an order denying the request to intervene and treating the request as an objection. The order also required MidAmerican to file a statement whether it would voluntarily have Mr. Buffett available to testify at the hearing. If Mr. Meyer wished to request a subpoena, he was ordered to file his request on or before April 7, 2004, and with his request for subpoena, to file evidence that explains the nature of his specific rights or interests he believes should be protected, and that shows how these rights or interests will be affected by the grant of the petition for renewal of the pipeline permit. The purpose of the requirement to file this evidence is to allow the undersigned to determine whether Mr. Meyer is entitled to be considered a party to this case, and thus whether he is entitled to a subpoena for Mr. Buffett pursuant to Iowa Code § 17A.13(1) (2003).

On April 6, 2004, MidAmerican filed a resistance to the request to have Mr. Buffett appear to answer questions at the hearing. In its resistance, MidAmerican stated it was not requesting to build a new pipeline or change the existing pipeline and the existing pipeline is used to provide natural gas service to the city of Blue Grass, Iowa and the surrounding area. MidAmerican stated the renewal of the pipeline permit would enable MidAmerican to continue to use the pipeline to serve the energy needs of its customers in and near Blue Grass. MidAmerican stated it had filed the prepared testimony of Mr. Grigsby who would be at the hearing and available to answer pertinent questions regarding the petition. MidAmerican stated it would deny Mr. Meyer's request to have Mr. Buffett at the hearing to answer questions. MidAmerican stated the purpose of the hearing was limited to receiving

evidence concerning the renewal of the pipeline permit, and there was no showing that anyone other than Mr. Grigsby had direct knowledge of the issues in this case or that the testimony of any other witness is necessary to fully address the issues in this case. MidAmerican stated there has been no showing that Mr. Buffett has knowledge of the specific issues in this case or that his participation would contribute to the decision in this matter. MidAmerican stated that Mr. Buffett is not an employee, officer or director of MidAmerican, and that his relationship with MidAmerican was indirect. MidAmerican further stated Berkshire Hathaway Inc. (Berkshire) is an investor in MidAmerican's parent corporation, MidAmerican Energy Holdings Company (MEHC), and Mr. Buffett is the Chairman and Chief Executive Officer of Berkshire, and a member of the MEHC board of directors. MidAmerican argued that these indirect connections to MidAmerican do not provide any plausible basis for Mr. Buffett to testify regarding the renewal of a permit for a roughly 25-year-old gas pipeline serving Blue Grass, Iowa and the surrounding area. MidAmerican also argued that Mr. Meyer failed to demonstrate any right or interest that may be affected by the granting of the renewal permit and, therefore, it does not appear that Mr. Meyer has satisfied the requirements to be considered a party to this proceeding. MidAmerican, therefore, resisted the request to have Mr. Buffett appear at the hearing.

On April 7, 2004, Mr. Meyer filed a request for the Board to subpoena Mr. Buffett. In his request, Mr. Meyer asked that the Board subpoena Mr. Buffett and postpone the hearing until such time as is convenient for Mr. Buffett to appear. Mr.

Meyer stated he was a customer at the time the pipeline in question was constructed by Iowa-Illinois Gas and Electric, and has continued to be a customer of the company, through all ownership changes, to the present MidAmerican. Mr. Meyer stated MidAmerican and MEHC are subsidiaries of Mr. Buffett's Berkshire Hathaway Inc. Mr. Meyer argued that Mr. Buffett has a reputation for being a financial wizard and has control of approximately \$15 billion in cash, and that the director of MEHC is a close personal friend of Mr. Buffett. Mr. Meyer further stated he "is on a MidAmerican pipeline directly affected, at a minimum, by a failure of the backup, to a failure of the unique gas line in question. See [map 1] which relates only to the question of whether natural gas can be received, not dependency. And at a maximum, to the failure, of the unique pipeline in question. See [maps 2 and 3.] We all don't know what happened, at recent the massive East coast blackout, but we do know Iowa is a cold state." Mr. Meyer provided three maps as exhibits to support this paragraph. It is unclear who created these maps or where Mr. Meyer obtained them. However, on map 1, entitled "Quad Cities System," there is a statement that "1012 Marquette St. does not or cannot receive natural gas from the Blue Grass lateral. A new line would have to be constructed." Mr. Meyer lives at 1012 Marquette St. The Blue Grass lateral is the pipeline at issue in this case. Although the map does not have a scale, so it is not clear how far Mr. Meyer's home is from the Blue Grass lateral, it appears that Mr. Meyer's home is not on the Blue Grass lateral and is some distance away from it. In his request, Mr. Meyer further argued the pipeline in question continues to be in need of valves to allow inspection and evaluation of

safety. Mr. Meyer alleged the pipeline in question went 24 days without corrective procedures toward safety, following a verbal notice to MidAmerican of violations. Mr. Meyer stated Berkshire records would show what Mr. Buffett was doing during this time. Mr. Meyer stated the pipeline records also show that the pipeline under Iowa-Illinois Gas and Electric had a better safety record, and a little money can go a long way towards safety. Mr. Meyer argued that he and other Scott County residents like him are at risk of natural gas pipeline failure to themselves, their homes, businesses, and neighborhoods, both urban and rural, while Mr. Buffett "sits on a \$15 million dollar pile of cash," and that the risk is higher for everyone listed than was present when the pipeline in question was owned by Iowa-Illinois Gas and Electric. Mr. Meyer further argued that Mr. Buffett is available to fly to Des Moines and is available by telephone. Mr. Meyer further stated that he intended to make a case for returning the pipeline in question to Iowa-Illinois Gas and Electric, reconstituted. He argued this would require the company to be recreated under international law, if no precedence could be found in the democracy of the United States, in much the same way that "Economic Latvia" was recreated following the departure of the Russians. Mr. Meyer further stated that all independent natural gas utilities in Iowa could be asked of their current interest in taking over the pipeline in question and making it safe. Mr. Meyer further stated that the president of Montezuma Light and Power said to him that Mr. Buffett would never take over their company regardless of how much money he had. Mr. Meyer requested the Board subpoena Mr. Buffett.

From the information he has filed so far, it does not appear that Mr. Meyer has shown he has a specific right or interest that would be affected by the grant of the renewal of the pipeline permit for the Blue Grass Lateral #2 sufficient to show he is entitled to party status in this case. From the information filed to date, it does not appear that Mr. Meyer's home is served by the Blue Grass Lateral #2 or that even if there were a safety issue with respect to the Blue Grass Lateral, or a failure of the Blue Grass lateral, that it would affect Mr. Meyer in any way. Merely being a customer of MidAmerican is not sufficient to give party status in this case that involves the narrow issue of whether the pipeline permit for an existing pipeline should be renewed. Therefore, Mr. Meyer is not entitled to a subpoena for Mr. Buffett pursuant to Iowa Code § 17A.13(1).

In his request, it appears that Mr. Meyer is not merely requesting that he be issued a subpoena for Mr. Buffett. Rather, it appears that Mr. Meyer is requesting that the Board itself subpoena Mr. Buffett to appear at the hearing to answer questions. This request should be denied. It does not appear that Mr. Buffett would have any knowledge regarding the Blue Grass Lateral #2. In his request, Mr. Meyer has raised safety concerns regarding the Blue Grass Lateral # 2. It does not appear that Mr. Buffett would have any knowledge regarding the safety of this pipeline. Mr. Buffett's professional reputation, wealth, and friendships are not relevant to whether the pipeline permit should be renewed. Whether the pipeline was safer under Iowa-Illinois Gas and Electric ownership is not relevant to the issues in this case. The only relevant issues with respect to safety are whether there is currently any safety issue

with respect to the pipeline, whether the pipeline meets all applicable pipeline safety standards, and whether any terms, conditions, or restrictions as to safety are just and proper. Iowa Code §§ 479.12 and 479.23; 199 IAC 10.2 and 10.12. It does not appear that Mr. Buffett would have any knowledge with respect to these issues. Therefore, Mr. Meyer's request that the Board subpoena Mr. Buffett to answer questions at the hearing is denied.

Even if he is not a party, Mr. Meyer may still participate in the hearing as an objector. Any evidence Mr. Meyer presents must be relevant to the issues in this case. Iowa Code § 17A.14.

In his request, Mr. Meyer stated he intends to make a case for returning the pipeline in question to Iowa-Illinois Gas and Electric, reconstituted, which would require the company to be recreated. The Board has no authority to order such an action. Therefore, any presentation by Mr. Meyer that relates to this intent will be ruled irrelevant and not be allowed at the hearing. In contested cases, irrelevant, immaterial, or unduly repetitious evidence should be excluded. Iowa Code § 17A.14. For the same reason, any presentation regarding whether other pipeline companies should be asked of their interest in taking over the pipeline and making it safe will be ruled irrelevant and not be allowed.

In his request, Mr. Meyer presented information and exhibits relevant to his argument that there are safety issues with respect to the Blue Stem Lateral #2 and that he would be directly affected by a failure of the Blue Stem Lateral #2. Mr. Meyer's request will be treated as prefiled testimony and exhibits. The safety of the

pipeline and whether a failure of the Blue Stem Lateral #2 could affect Mr. Meyer are relevant issues in this case. However, what Mr. Buffett was doing during the alleged 24 days is irrelevant to this case. Other than the allegation regarding Mr. Buffett, and the allegation that the pipeline was safer under Iowa-Illinois Gas and Electric ownership, MidAmerican must be prepared to address Mr. Meyer's allegations regarding safety at the hearing. Mr. Meyer should take note of the information already filed in this case in the petition for permit, prefiled testimony, and staff report regarding the safety of the pipeline.

IT IS THEREFORE ORDERED:

1. Mr. Meyer is not a party in this case. Rather, he is an objector.
2. The request for the Board to subpoena Mr. Warren Buffett filed by Mr. Keith Meyer on April 7, 2004, is denied.
3. The request for subpoena and attached exhibits will be treated as prefiled testimony and exhibits of Mr. Meyer.
4. In his request, Mr. Meyer stated he intends to make a case for returning the pipeline in question to Iowa-Illinois Gas and Electric, reconstituted, which would require the company to be recreated. The Board has no authority to order such an action. Therefore, any presentation by Mr. Meyer that relates to this intent will be ruled irrelevant and not be allowed at the hearing. Any presentation regarding whether other pipeline companies should be asked of their interest in taking over the pipeline and making it safe will be ruled irrelevant and not be allowed.

5. In his request, Mr. Meyer presented information and exhibits relevant to his argument that there are safety issues with respect to the Blue Stem Lateral #2 and that he would be directly affected by a failure of the Blue Stem Lateral #2. Other than the allegation regarding Mr. Buffett, and the allegation that the pipeline was safer under Iowa-Illinois Gas and Electric ownership, MidAmerican must be prepared to address these safety issues at the hearing.

6. Pursuant to Iowa Code §§ 17A.12(1) and 199 IAC 10.4, a copy of this order will be served by ordinary mail upon Mr. Meyer, MidAmerican and the Consumer Advocate. In addition, because the hearing will be held in this case on April 13, 2004, the Board Records and Information Center will fax or email a copy of this order to MidAmerican and Mr. Meyer, or will notify them by telephone when the order is available on the Board's website.

7. All provisions of the order issued April 1, 2004, remain in effect.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 8th day of April, 2004.